IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.600 OF 2004.

Shri Ramchandra Bhagwan Kengar : Appellant.

versus

The Municipal Corporation City

Solapur & others. : Respondents.

Mr.M.A.Utigar for the appellant.

CORAM : D.G.DESHPANDE,J.

DATED : 20th September 2005.

ORAL ORDER

1. Heard advocate for the appellant. Appellant was the pillion rider of the motor cycle. He met with an accident which took place in between the motor cycle and the bus of the respondent. He received the injuries. He filed a claim petition which came to be dismissed and rejected. Hence this appeal.

2. In para 10 of the judgment the trial court stated the manner in which the accident took place and has come to the conclusion from the facts on record that the motor cycle hit the rear side of the bus of the respondent. This itself absolved the driver of the bus and the most important thing that was held against the appellant is, the appellant did not join the owner of the motor cycle or driver of the motor cycle as opponent in this claim petition. In fact if he was sitting on the motor cycle and there was an accident to the motor cycle then it was necessary to join the owner of the vehicle and the driver as the opponent. The driver of the bus was examined and as between the evidence of this appellant and driver of the bus, the Court was justified in accepting the evidence of the driver. Even the person who was driving the motor cycle was not examined. Panchanama of the accident was produced. That clearly supports the case of the respondent. There is no merit in this appeal. The appeal is dismissed.

[D.G.DESHPANDE,J]